

section (a) shall apply to any reportable interest or dividend payment made—

- (i) after the close of the 30th day after the day on which the payor received notification from the Secretary of such under-reporting, and
- (ii) before the stop date.

(B) Stop date

For purposes of this subsection, the term “stop date” means the determination effective date or, if later, the earlier of—

- (i) the day on which the payor received notification from the Secretary under subsection (c)(3)(B) to stop withholding, or
- (ii) the day on which the payor receives from the payee a certification provided by the Secretary under subsection (c)(3)(B).

(C) Determination effective date

For purposes of this subsection—

(i) In general

Except as provided in clause (ii), the determination effective date of any determination under subsection (c)(3)(A) which is made during the 12-month period ending on October 15 of any calendar year shall be the first January 1 following such October 15.

(ii) Determination that there was no under-reporting; hardship

In the case of any determination under clause (i) or (iii) of subsection (c)(3)(A), the determination effective date shall be the date on which the Secretary’s determination is made.

(4) Failure to provide certification that payee is not subject to withholding

(A) In general

In the case of any payee certification failure described in subsection (d)(1), subsection (a) shall apply to any reportable interest or dividend payment made during the period during which the certification described in subsection (d)(1) has not been furnished to the payor.

(B) Special rule for readily tradable instruments acquired through broker where notification

In the case of any readily tradable instrument acquired by the payee through a broker, the period described in subparagraph (A) shall start with payments to the payee made after the close of the 30th day after the payor receives notification from a broker under subsection (d)(2)(B).

(5) 30-day grace periods

(A) Start-up

If the payor elects the application of this subparagraph with respect to the payee, subsection (a) shall also apply to any reportable payment made during the 30-day period described in paragraph (2)(A), (3)(A), or (4)(B).

(B) Stopping

Unless the payor elects not to have this subparagraph apply with respect to the payee, subsection (a) shall also apply to any

reportable payment made after the close of the period described in paragraph (1), (2), or (4) (as the case may be) and before the 30th day after the close of such period. A similar rule shall also apply with respect to the period described in paragraph (3)(A) where the stop date is determined under clause (i) or (ii) of paragraph (3)(B).

(C) Election of shorter grace period

The payor may elect a period shorter than the grace period set forth in subparagraph (A) or (B), as the case may be.

(f) Confidentiality of information

(1) In general

No person may use any information obtained under this section (including any failure to certify under subsection (d)) except for purposes of meeting any requirement under this section or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103.

(2) Cross reference

For provision providing for civil damages for violation of paragraph (1), see section 7431.

(g) Exceptions

(1) Payments to certain payees

Subsection (a) shall not apply to any payment made to—

- (A) any organization or governmental unit described in subparagraph (B), (C), (D), (E), or (F) of section 6049(b)(4), or
- (B) any other person specified in regulations.

(2) Amounts for which withholding otherwise required

Subsection (a) shall not apply to any amount for which withholding is otherwise required by this title.

(3) Exemption while waiting for TIN

The Secretary shall prescribe regulations for exemptions from the tax imposed by subsection (a) during the period during which a person is waiting for receipt of a TIN.

(h) Other definitions and special rules

For purposes of this section—

(1) Obviously incorrect number

A person shall be treated as failing to furnish his TIN if the TIN furnished does not contain the proper number of digits.

(2) Payee furnishes 2 incorrect TINs

If the payee furnishes the payor 2 incorrect TINs in any 3-year period, the payor shall, after receiving notice of the second incorrect TIN, treat the payee as not having furnished another TIN under subsection (e)(2)(B) until the day on which the payor receives notification from the Secretary that a correct TIN has been furnished.

(3) Joint payees

Except to the extent otherwise provided in regulations, any payment to joint payees shall be treated as if all the payment were made to the first person listed in the payment.

(4) Payor defined

The term “payor” means, with respect to any reportable payment, a person required to

file a return described in paragraph (2) or (3) of subsection (b) with respect to such payment.

(5) Broker

(A) In general

The term “broker” has the meaning given to such term by section 6045(c)(1).

(B) Only 1 broker per acquisition

If, but for this subparagraph, there would be more than 1 broker with respect to any acquisition, only the broker having the closest contact with the payee shall be treated as the broker.

(C) Payor not treated as broker

In the case of any instrument, such term shall not include any person who is the payor with respect to such instrument.

(D) Real estate broker not treated as a broker

Except as provided by regulations, such term shall not include any real estate broker (as defined in section 6045(e)(2)).

(6) Readily tradable instrument

The term “readily tradable instrument” means—

(A) any instrument which is part of an issue any portion of which is traded on an established securities market (within the meaning of section 453(f)(5)), and

(B) except as otherwise provided in regulations prescribed by the Secretary, any instrument which is regularly quoted by brokers or dealers making a market.

(7) Original issue discount

To the extent provided in regulations, rules similar to the rules of paragraph (6) of section 6049(d) shall apply.

(8) Requirement of notice to payee

Whenever the Secretary notifies a payor under paragraph (1)(B) of subsection (a) that the TIN furnished by any payee is incorrect, the Secretary shall at the same time furnish a copy of such notice to the payor, and the payor shall promptly furnish such copy to the payee.

(9) Requirement of notice to Secretary

If the Secretary notifies a payor under paragraph (1)(B) of subsection (a) that the TIN furnished by any payee is incorrect and such payee subsequently furnishes another TIN to the payor, the payor shall promptly notify the Secretary of the other TIN so furnished.

(10) Coordination with other sections

For purposes of section 31, this chapter (other than section 3402(n)), and so much of subtitle F (other than section 7205) as relates to this chapter, payments which are subject to withholding under this section shall be treated as if they were wages paid by an employer to an employee (and amounts deducted and withheld under this section shall be treated as if deducted and withheld under section 3402).

(i) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 98-67, title I, § 104(a), Aug. 5, 1983, 97 Stat. 371; amended Pub. L. 98-369, div. A, title I, § 152(a), title VII, § 722(h)(1), (2), July 18, 1984, 98 Stat. 691, 975; Pub. L. 99-514, title XV, §§ 1521(b), 1523(b)(1), title XVIII, § 1899A(46), Oct. 22, 1986, 100 Stat. 2746, 2748, 2961; Pub. L. 100-647, title I, § 1018(u)(44), Nov. 10, 1988, 102 Stat. 3592; Pub. L. 102-486, title XIX, § 1935(a), Oct. 24, 1992, 106 Stat. 3032.)

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102-486, in closing provisions, substituted “31 percent” for “20 percent”.

1988—Subsec. (h)(5)(D). Pub. L. 100-647 inserted period at end of subpar. (D).

1986—Subsec. (b)(3)(E). Pub. L. 99-514, § 1523(b)(1), added subpar. (E).

Subsec. (b)(6). Pub. L. 99-514, § 1899A(46), substituted “6041A(a)” for “6041(A)(a)” in heading.

Subsec. (h)(5)(D). Pub. L. 99-514, § 1521(b), added subpar. (D).

1984—Subsec. (c)(1). Pub. L. 98-369, § 722(h)(2), substituted “(but not the reasons for the withholding under subsection (a)(1)(C))” for “(but not the reasons therefor)”.

Subsec. (d)(2)(A). Pub. L. 98-369, § 722(h)(1)(A), inserted “the payor was notified by a broker under subparagraph (B) or” after “if (and only if)” in provisions preceding cl. (i), struck out cl. (i) which read as follows: “the payor was notified by a broker under subparagraph (B),” and redesignated cls. (ii) and (iii) as (i) and (ii), respectively.

Subsec. (d)(2)(B). Pub. L. 98-369, § 722(h)(1)(B), in amending subpar. (B) generally, reenacted cl. (i), in cl. (ii) inserted “with respect to such acquisition—”, added subcls. (I) and (II), redesignated former subcls. (I) and (II) as (III) and (IV), respectively, and in subcl. (III) substituted “the Secretary notifies such broker” for “such broker is notified by the Secretary”, and in provisions following cl. (ii) substituted “shall within such period as the Secretary may prescribe by regulations (but not later than 15 days after such acquisition), notify the payor that such payee is subject to withholding under subparagraph (A), (B), (C) or (D) of subsection (a)(1),” for “within 15 days after the date of the acquisition notify the payor that such payee is subject to withholding under subsection (a)(1)(D) (or subsection (a)(1)(C) in the case of a notification described in clause (ii)(II)).”

Subsec. (e)(1). Pub. L. 98-369, § 152(a), inserted provision that the Secretary may require that a TIN required to be furnished under subsection (a)(1)(A) be provided under penalties of perjury only with respect to interest, dividends, patronage dividends, and amounts subject to broker reporting.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1935(b) of Pub. L. 102-486 provided that: “The amendment made by subsection (a) [amending this section] shall apply to amounts paid after December 31, 1992.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1521(b) of Pub. L. 99-514 applicable to real estate transactions closing after Dec. 31, 1986, see section 1521(c) of Pub. L. 99-514, set out as a note under section 6045 of this title.

Amendment by section 1523(b)(1) of Pub. L. 99-514 applicable to payments made after Dec. 31, 1986, see section 1523(d) of Pub. L. 99-514, set out as an Effective Date note under section 6050N of this title.